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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against,

JEAN PITTMAN MULLOY

1192 Carter Circle

Purvis, MS 39475

Registered Nurse License No. 610145

Respondent.

Case No. **2010-150**

ACCUSATION

Complainant alleges:

PARTIES

1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

2. On or about December 2, 2002, the Board issued Registered Nurse License Number 610145 to Jean Pittman Mulloy ("Respondent"). Respondent's registered nurse license was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2750 of the Code provides that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 of the Code states, in part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

REGULATORY PROVISIONS

7. California Code of Regulations, title 16, section ("Regulation") 1442 states:

As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life.

1 8. California Code of Regulations, title 16, section 1443, states:

2 As used in Section 2761 of the code, "incompetence" means the lack of possession of
3 or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed
4 and exercised by a competent registered nurse as described in Section 1443.5.

5 9. California Code of Regulations, title 16, section 1443.5, states:

6 A registered nurse shall be considered to be competent when he/she
7 consistently demonstrates the ability to transfer scientific knowledge from social,
8 biological and physical sciences in applying the nursing process, as follows:

9 (1) Formulates a nursing diagnosis through observation of the client's
10 physical condition and behavior, and through interpretation of information obtained
11 from the client and others, including the health team.

12 (2) Formulates a care plan, in collaboration with the client, which ensures
13 that direct and indirect nursing care services provide for the client's safety, comfort,
14 hygiene, and protection, and for disease prevention and restorative measures.

15 (3) Performs skills essential to the kind of nursing action to be taken,
16 explains the health treatment to the client and family and teaches the client and family
17 how to care for the client's health needs.

18 (4) Delegates tasks to subordinates based on the legal scopes of practice
19 of the subordinates and on the preparation and capability needed in the tasks to be
20 delegated, and effectively supervises nursing care being given by subordinates.

21 (5) Evaluates the effectiveness of the care plan through observation of the
22 client's physical condition and behavior, signs and symptoms of illness, and reactions
23 to treatment and through communication with the client and health team members,
24 and modifies the plan as needed.

25 (6) Acts as the client's advocate, as circumstances require, by initiating
26 action to improve health care or to change decisions or activities which are against the
27 interests or wishes of the client, and by giving the client the opportunity to make
28 informed decisions about health care before it is provided.

COST RECOVERY

1 10. Section 125.3, subdivision (a), of the Code states, in part:

2 Except as otherwise provided by law, in any order issued in resolution of
3 a disciplinary proceeding before any board within the department . . . the board may
4 request the administrative law judge to direct a licentiate found to have committed a
5 violation or violations of the licensing act to pay a sum not to exceed the reasonable
6 costs of the investigation and enforcement of the case.

STATEMENT OF FACTS

11. On or about September 5, 2003, Respondent was employed as a travel nurse for American Mobile and was assigned to work as a registered nurse in the Labor and Delivery Unit at Community Hospital of San Bernardino, San Bernardino, California. Respondent worked the night shift from 1900 hours to 0700 hours.

12. On September 5, 2003, at 16:25 hours, patient C. L., a 20 year old female, was admitted to the Labor and Delivery Unit at the hospital in early labor, with complaints of ruptured membranes with meconium fluid noted (the baby had a bowel movement in utero). The physician was present at admission and immediately inserted an intrauterine pressure catheter for amniofusion.¹

13. At 17:00 hours, Pitocin was started at 1 mu/min (milliunits per minute) to augment the patient's labor. Her contractions were 2 to 4 minutes apart.

14. At approximately 18:30 hours, the patient's contractions were 1 to 3 minutes apart, lasted 60 to 90 seconds, and were 55 to 75 mmHg² in intensity. The patient also had an elevated resting tone of 25 to 35 mmHg (normal resting tone is 10 to 20 mmHg).

15. Respondent took over the care of the patient at approximately 19:00 hours. The patient's uterine contractions were every 2 to 3 minutes apart and the resting tone remained elevated at 25-35.

16. At approximately 20:00 hours, Respondent increased the Pitocin to 1.5 mu/min. The patient's uterine contractions were 1 to 3 minutes apart and the resting tone remained elevated. There were some periods of hyperstimulation in that the contractions were too close together and there was not enough resting time in between contractions.³

¹ Amniofusion is often used to thin out meconium in the amniotic fluid, decreasing the chance of the fetus aspirating thick particulate meconium.

² The medical abbreviation for millimeter of mercury, a unit used to measure blood pressure.

³ Hyperstimulation is defined as uterine contractions closer than every 2 minutes, lasting longer than 90 to 120 seconds, or relaxation between contractions less than 30 seconds. Continued Hyperstimulation may result in an abruption, possible uterine rupture, and/or fetal distress.

1 17. At 21:00 hours, Respondent increased the Pitocin to 2 mu/min despite the
2 patient's increased resting tone (Respondent charted the resting tone as 39/40) and the
3 hyperstimulation of the uterus.

4 18. At 21:28 hours, Respondent increased the Pitocin to 3 mu/min despite the
5 contractions being too close together and the increased resting tone (Respondent charted the
6 resting tone as 55).

7 19. At 22:09 hours, Respondent charted the resting tone as 50 and opened the port
8 on the intrauterine pressure catheter.

9 20. At 00:33 hours, Respondent documented the resting tone as 33 to 50 and the
10 uterine contractions as 1 to 3 minutes apart. The patient's uterus remained hyperstimulated and
11 the resting tone remained elevated at 25 to 35 mmHg.

12 21. During the shift change meeting, the fetal heart rate was jumping between
13 120/160 and leveled out in 150-170 range. After Respondent's shift ended and she left the
14 facility, a series of late decelerations⁴ began and continued off and on for several hours. The
15 OB/GYN ws notified and an emergency C-section performed on September 6, 2003. The infant
16 was apneic⁵ at birth. The infant was treated for meconium aspiration and sepsis. He was later
17 found to have severe brain damage.

18 FIRST CAUSE FOR DISCIPLINE

19 (Gross Negligence)

20 22. Respondent is subject to disciplinary action pursuant to Code section 2761,
21 subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about September 5,
22 2003, and September 6, 2003, Respondent was guilty of gross negligence within the meaning of
23 Regulation 1442, as follows:

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26 ⁴ A deceleration is a decrease in the fetal heart rate that can indicate inadequate blood flow
27 through the placenta. A late deceleration in fetal heart rate monitoring means a transient decrease in heart
rate occurring at or after the peak of a uterine contraction, which may indicate fetal hypoxia.

28 ⁵ Apnea is the temporary absence or cessation of breathing.

1 a. Respondent failed to identify and treat the patient's uterine hyperstimulation in
2 a timely manner.

3 b. Respondent failed to identify and treat the patient's uterine hypertonus⁶ in a
4 timely manner.

5 c. Respondent failed to correctly administer and monitor Pitocin in that she
6 continued to increase the Pitocin despite the hyperstimulation and hypertonus of the uterus and
7 the risks associated with each.

8 d. Respondent failed to document procedures performed as per protocols, as
9 follows: Respondent failed to document a check of the resting tone every 30 minutes (per
10 protocol, the intrauterine resting tone was to be assessed every 30 minutes by pinching the IV
11 tubing). Further, Respondent failed to document the recalibration or re-zeroing of the electronic
12 fetal monitoring every 4 hours and at the beginning of her shift.

13 SECOND CAUSE FOR DISCIPLINE

14 (Incompetence)

15 23. Respondent is subject to disciplinary action pursuant to Code section 2761,
16 subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about September 5,
17 2003, and September 6, 2003, Respondent was guilty of incompetence within the meaning of
18 Regulation 1443, as set forth in paragraphs 11 through 22, above.

19 THIRD CAUSE FOR DISCIPLINE

20 (Unprofessional Conduct)

21 24. Respondent is subject to disciplinary action pursuant to Code section 2761,
22 subdivision (a), in that on or about September 5, 2003, and September 6, 2003, Respondent
23 committed acts constituting unprofessional conduct, as set forth in paragraphs 11 through 23
24 above.

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26 ⁶ Hypertonus is defined as an elevated resting tone greater than 20 to 25 mmHg or the peak
27 pressure of contractions greater than 80 mmHg or Montevideo units greater than 400. Montevideo units
28 are used in describing intensity of uterine contractions over a 10 minute period and are calculated by
subtracting the resting tone of the uterus from the peak pressure of each contraction in the 10 minute
period and then added together.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 610145, issued to Jean Pittman Mulloy;
2. Ordering Jean Pittman Mulloy to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

9/15/09

Louise R. Bailey

Louise R. Bailey, MEd., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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